

adequate prime competition was obtained. Whether there is adequate price competition for a given sale is a matter of judgment to be based on the circumstances of the sale. If the circumstances do not permit a reasonable determination that the price competition was adequate, the sale should be resolicited.

[36 FR 12297, June 30, 1971]

Subpart 101-45.4—Contract Disputes

SOURCE: 59 FR 60561, Nov. 25, 1994, unless otherwise noted.

§ 101-45.400 Scope of subpart.

This subpart provides guidance regarding contract claims and appeals relating to contracts for the sale of personal property under the Contract Disputes Act of 1978, as amended, (41 U.S.C. 601-613). Contracting agencies should seek guidance from the Contract Disputes Act (the Act) and Federal Acquisition Regulation (FAR) 48 CFR Part 33. The Act applies to all contracts entered into by executive agencies for the sale of personal property, except the following:

(a) Contracts with a foreign government or agency of that government when the agency head determines that application of the Act to the contract would not be in the public interest,

(b) Contracts with an international organization or a subsidiary body of that organization, if the agency head determines that the application of the Act to the contract would not be in the public interest, and

(c) Contracts of the Tennessee Valley Authority unless such contracts contain a disputes clause requiring dispute resolution via an administrative process.

§ 101-45.401 The disputes clause.

The disputes clause contained at 48 CFR 52.233-1 must be included in all solicitations and contracts for the sale of personal property unless the exceptions in § 101-45.400 apply.

§ 101-45.402 Alternative disputes resolution.

The Government's policy is to try to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level. Agencies are encouraged to use alternative dispute resolution (ADR) procedures to the maximum extent practicable in accordance with the authority and the requirements of the Administrative Disputes Resolution Act (Pub. L. 101-522) and agency policies.

Subpart 101-45.5 [Reserved]

Subpart 101-45.6—Debarred, Suspended, and Ineligible Contractors

§ 101-45.600 Scope of subpart.

This subpart prescribes policies and procedures governing the debarment or suspension of contractors for contracts involving the sale by the Government of personal property.

[50 FR 41145, Oct. 9, 1985]

§ 101-45.601 Policy.

(a) Agencies shall solicit offers from, award contracts to, and consent to subcontracts only with responsible contractors, as defined by Federal Acquisition Regulation (FAR) 9.104-1.

(b) The policies, procedures, and requirements of FAR subpart 9.4 are incorporated by reference and made applicable to contracts for, and to contractors who engage in the purchase of Federal personal property.

(c) The debarment or suspension of a contractor from the purchase of Federal personal property has Governmentwide effect and precludes any agency from entering into a contract for purchase of personal property with that contractor unless the agency's head or a designee responsible for the disposal action determines that there is a compelling reason for such action. (See FAR 9.405(a).)

(d) When the debarring/suspending official has authority to debar/suspend contractors from both contracts for the purchase of Federal personal property